

shorten the 20-day deadline for discovery responses as established under S.C. Code Regs. 103-833 (2012); and (iii) the June 18, 2020, letter of counsel for the Sierra Club with regard to its proposed procedural schedule and concern for the abbreviated statutory timeline for this proceeding and request for the Commission shorten the 20-day deadline for discovery responses as established under S.C. Code Regs. 103-833 (2012) for the benefit of all parties.

I. Dominion Must Update for Out-of-Period Known and Measurable Matters Through September 30, 2020

Dominion with the ORS wrote to the Commission on June 18, 2020, that “Company and ORS are in agreement that DESC will maintain the historical test period as the twelve-months ended December 31, 2019, and that the Company will update its test period results for known and measurable matters as of September 30, 2020.” *See June 18, 2020 Joint Comments of Dominion and ORS, p. 4 (ID 292349)*. SELC, together with CCL, also supports that the Commission requiring Dominion to update its test period results for the historical test period of January 1, 2019, thru December 31, 2019, for known and measurable changes as of September 30, 2020. *See June 18, 2020 Comments of the Southern Environmental Law Center (ID 292362)*.

“The test year is established to provide a basis for making the most accurate forecast of the utility’s rate base, revenues, and expenses in the near future when the prescribed rates are in effect. The historical test year may be used as long as adjustments are made for any known and measurable out-of-period changes in expenses, revenues, and investments.” *Porter v. S.C. Pub. Serv. Comm’n*, 328 S.C. 222, 493 S.E.2d 92 (1997). Indeed, the Commission should consider known and measurable changes in expenses,

revenues, and investments which occur after the test year so that any resulting rates will reflect the actual base rate, net operating information and cost of capital. *Southern Bell v. Pub. Serv. Comm'n of South Carolina*, 270 S.C. 590, 602–03, 244 S.E.2d 278, 284–85 (1978). Adjustments are within the discretion of the Commission and, although they must be known and measurable within a degree of reasonable certainty, absolute precision is not required. *Hamm v. South Carolina Public Service Comm'n*, 309 S.C. 282, 291, 422 S.E.2d 110, 115 (citing *Michaelson v. New England Tel. & Tel. Co.*, 121 R.I. 722, 404 A.2d 799 (1979)).

For good cause and the benefit of the parties and the public interest, the Commission finds and orders Dominion to update the historical test period data for known and measurable out-of-period changes in expenses, revenues, and investments through September 30, 2020. The Commission further finds and orders that nothing herein this Order shall limit or restrict the ability of any party or the Commission from reviewing such material or for the Commission to further rule or make any determination concerning any known and measurable out-of-period changes in expenses, revenues, and investments or related matters at any time in this Docket.

II. Request to Shorten Minimum Discovery Response Time and to Set a Discovery Deadline

On June 18, 2020, the Sierra Club commented on various procedural issues in this Docket, including the establishment of a December 1, 2020, last day deadline to file discovery. *See June 18, 2020 Comments of the Sierra Club (ID 292365)*. This December 1, 2020, deadline for discovery was also proposed by SELC and CCL. *See June 18, 2020,*

Comments of the Southern Environmental Law Center (ID 292362). However, Dominion and ORS had jointly proposed that:

Discovery shall end on **November 17, 2020**, and no Party of Record may serve discovery upon another Party of Record after this date. If, however, ORS has any questions regarding any discovery response received after **November 17, 2020**, then the Parties shall work together in good faith to answer the questions without need for further formal or informal discovery.

See June 18, 2020, Joint Comments of Dominion and ORS, p. 3, ¶3 (ID 292349). The request to set a discovery deadline or a discovery period is denied.


Further, pursuant to the letters cited above, CCL, SACE, and the Sierra Club requested that the 20-day response period to discovery required in Commission Regulation 103-833 (B) be shortened. This request is denied.

Commission Regulations 103-833 and 103-835 provide parties with a discovery structure to use, and also impose a duty for parties to supplement responses as provided by the South Carolina Rules of Civil Procedure 26 (e). While the Commission is authorized to adjust discovery schedules, time periods, or response times on a case by case basis, the Commission finds at this time that good cause or urgency does not exist to alter or amend the normal discovery schedule or response time established by Commission Regulations. Nothing shall prevent any party in this Docket from requesting a discovery related response time change or any other request in this Docket as it proceeds toward hearing. Finally, nothing will prevent the Commission or its designee from revisiting any discovery issues related to this rate case that will be filed.

This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:





Florence P. Belser, Vice Chairman
Public Service Commission of
South Carolina